IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

Bail Appl..No. 4346 of 2007()

CRIME NO. 208/07 OF KADAKKAL POLICE STATION

APPLICANTS/ACCUSED NOS.2 AND 12

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1. ABILASH, AGED 24 YEARS, S/O. VIJAYAN,
   ARCHANA BHAVAN, CHAYIKODE, PULUVANA P.O.,
   KADAKKAL.

2. UDAYAN @ UDAYAKUMAR, S/O. VASUDEVAN,
   THADATHIL VEEDU, MISSION KUNNU, NILAMEL P.O.,
   KADAKKAL.

BY ADV. SRI.ALAN PAPALI
SRI.PRASUN.S

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.P. RAVEENDRA BABU

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 4346 of 2007

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Dated this the 19th day of July, 2007

O R D E R

Application for anticipatory bail. The petitioners are accused 2 and 12. The alleged incident took place on 8.5.2007. The incident was really a clash between employees of the buses and the students. The petitioners face allegations for offence punishable, inter alia, under Section 308 I.P.C. There is a case and counter case. Investigation is in progress. The petitioners apprehend imminent arrest. The learned counsel for the petitioners submits that a conference has been called by the District Collector and the disputes have been settled.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. At any rate, it is transparently evident that the allegation under Section 308 I.P.C. is not justified at all. It is alleged that there was an attempt by one of the accused (not the petitioners) to inflict an injury on the head of one of the victims by beating with an iron rod. Fortunately the iron rod slipped and the beating landed on other parts of the body. This is the crux of the

allegation under Section 308 I.P.C. The learned counsel submits that a careful reading of the wound certificate would expose the hollowness of the allegations. Convenient allegations are raised under Section 308 I.P.C. to unnecessarily exaggerate the gravity of the allegation. In these circumstances directions under Section 438 Cr.P.C. may be issued in favour of the petitioners, submits the Prosecutor.

3. The learned Prosecutor opposes the application. But notwithstanding the opposition I am satisfied in the facts and circumstances which I have already indicated that anticipatory bail can be granted to the petitioners. I say so because all other offences are bailable offences and there does not appear to be sufficient substratum to raise the allegation under Section 308 I.P.C. The submission that the matter has been settled, which is not controverted does also, weigh with me in coming to this conclusion that anticipatory bail can be granted to the petitioners, subject to appropriate conditions.

4. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioners shall surrender before the learned Magistrate on 26.7.2007 at 11 a.m. The learned Magistrate shall release the petitioners on

regular bail on condition that they execute bonds for Rs.25,000/- (Rupees twenty five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 4 p.m. on 27.7.07 and 28.7.2007 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of two months. Subsequently they shall appear before the Investigating Officer as and when directed by the Investigating Officer in writing to do so.

(d) If the petitioners do not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 26.7.06 and the police shall be at liberty thereafter to arrest the petitioners and deal with them in accordance with law.

(b) If the petitioners were arrested prior to their surrender on 26.7.2006 as directed in clause (1) above, they shall be released from custody on their executing bonds for Rs.25,000/- each without any surety undertaking to appear before the learned Magistrate on 26.7.2007.

(R. BASANT)
Judge

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